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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/875,294	06/07/2001	Stefan Fietkau	31512-172404 RK	4659

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EXAMINER	
SIPOS, JOHN	
ART UNIT	**PAPER NUMBER**
3721	

DATE MAILED: 01/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/875,294	FIETKAU, STEFAN	
	Examiner	Art Unit	
	John Sipos	3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *03 November 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *4-8,10-12,15-18 and 24-26* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *4-8,10-12,15-18 and 24-26* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

REJECTIONS OF CLAIMS BASED ON PRIOR ART

Applicant's arguments have been considered but are not persuasive and therefore the rejection based on Hidake in view of Pollentzke made in the last Office action is repeated.

Claims 24,4-8,10-12,15-18, 25 and 26 are rejected under **35 U.S.C. ' 103(a)** as being unpatentable over the patent to Hidaka (6,311,899) in view of Pollentzke (5,226,432) or alternatively Pollentzke (5,226,432) in view of Hidaka (6,311,899).

The patent to Hidaka shows a method of applying a flowable substance to a web of material, comprising the steps of confining the web to movement along a predetermined path, directing at least one stream of flowable substance in an at least partially non-linear manner toward one side of the web, wherein said directing step includes the utilization of a nozzle A having a cone 2 and an orifice 21 which discharges the at least one stream of flowable substance, and includes rotating the stream, wherein said rotating step includes directing against the stream at least one flow of a fluid substance through passages 12 and advancing the web lengthwise along said path at a variable speed.

The patent to Pollentzke shows the method of wrapping rod shaped products in the tobacco industry comprising the steps of confining a web 21 of wrapping material in a predetermined path, directing an adhesive toward one side of the web at 19, advancing the web at variable speed by elements 20,22 driven by a motor 48 and discharging the adhesive at a rate which is a function of the speed of advancement of the web (column 8, line 11 et seq.) thereby optimizing and controlling the amount of adhesive applied to the wrapper.

The patent to Hidaka lacks the control of the discharging of the adhesive as a function of the web speed. It would have been obvious to one skilled in the art to control the discharge of the

adhesive of Hidaka as a function of the speed of the web as taught by Pollentzke to apply optimal quantities of adhesive to the web. The use of the web material for rod-shaped products as recited in line 2 of claim 25 is merely the intended use of the web that may or may not take place and no weight is given to this future use. The confining and variable speed advancing steps of the web are read on the discussion of Hidaka of the various patterns of the adhesive achieved by changing the speed of the film to which the adhesive is applied in column 5, line 41 et seq; column 6, lines 65-68; column 7, line 8; and column 7, line 22.

Alternatively, it would have been obvious to one skilled in the art substitute an adhesive applicator such as shown by Hidaka for the adhesive applicator of Pollentzke to enable easiness of selection of adhesive pattern and width.

Regarding claims 10-12, the use of nozzles to apply adhesives inherently requires the presence of some pressure. While the orifice/valve of the nozzle is closed the adhesive has to be maintained under pressure so that upon opening of the orifice it will be discharged. Note the use of an adhesive pump 38 in the applicator of Pollentzke.

Regarding claim 26, Pollentzke teaches two methods of operation: under normal conditions when the filter rod making and the web speed is under a first speed the adhesive discharge is directly proportional to the web speed (see column 8, line 11-22) and when the web speed moves at a second speed slower than the first speed the adhesive discharge is inversely proportional to the web speed (see column 8, lines 38-65).

RESPONSE TO APPLICANT'S ARGUMENTS

Applicant's arguments with respect to the claims have been considered but are not persuasive.

Applicant argues that Hidaka does not show a web used in the tobacco industry and the discharging of the adhesive at a rate that is function of the speed of the web. It should first be noted that Hidaka teaches the application of the adhesive onto films as disclosed in Examples 2 and 3 in column 7 which also describe the variations of the film speeds. Furthermore, the specific substrate to which the adhesive is applied is given little patentable weight in the process and it is an obvious modification to use any substrate desired in the Hidaka process. The specific substrate/article cannot determine patentability of the claims since then the same process would have to be allowed if different article is used. Similarly, the intended use of the process in the tobacco industry, without further claiming of the process steps directed to the tobacco handling operation is given little weight since it is merely the intended use of the process.

Furthermore, the patent to Pollentzke teaches both of these concepts. It shows the use of a web and the application of the adhesive to the web as a function of the web speed. Regarding claim 25, the argument that Pollentzke teaches an inverse proportion the adhesive discharge to the speed of the web is of little consequence since the above claim merely recites the discharge as a "function" of the web speed, which can be read on any functional relationship. Regarding claim 26, without further clarification, the "directly proportional" language used in the claim can be read on Pollentzke since it shows a proportional relationship even though it may be an inverse relationship, i.e. the Pollentzke rate of adhesive discharge is directly proportional to the speed of the web in an inverse relationship. Furthermore as noted in the rejection, Pollentzke does teach both direct inversely proportional relationship of the adhesive discharge and web speed during

normal and slower operations, respectively, of the filter rod making machine (column 8, line 11 et seq.).

Regarding the argument that the pressure for the adhesive is not disclosed by Hidaka, attention is directed to the different and specific rates that the adhesive is discharged in the Examples of columns 6 and 7 which would require the presence of pressure in the adhesive lines. Also note that Hidaka does refer to the adhesive pressure in column 4, line 63 et seq. In the Pollentzke machine pump 38 provides the adhesive pressure.

The argument that the combination is not proper since no motivation is provided, attention is directed to the objects and advantages of using an adhesive discharge as a function of the web speed recited in the specification of Pollentzke. It specifically states that by using its process the amount of adhesive is optimally controlled so that too much or too little is not applied which adhesive may either issue from the wrapper seam or would produce an insufficient seal (see column 1, line 65 et seq.).

The argument that even if the references were combined the combination would produce improper seals in that large amount of adhesive would be applied to the web is also not persuasive. Pollentzke clearly teaches that the increasing of the adhesive discharge when the web speed decreases as Pollentzke performs the method would not result in large deposits of adhesive but rather it would produce the optimum desired adhesive.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP э 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

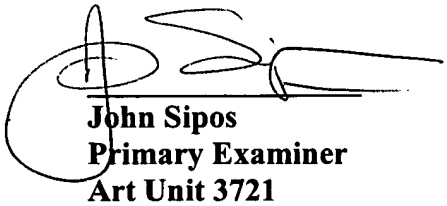
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication should be directed to **Examiner John Sipos** at telephone number **571-272-4468.** The examiner can normally be reached from 6:30 AM to 4:00 PM Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Rinaldi Rada, can be reached at **571-272-4467**.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group Receptionist whose telephone number is **571-272-3700**.



John Sipos
Primary Examiner
Art Unit 3721